

Minutes
Environmental Protection Committee
2 Martin Luther King, Jr. Drive, S.E.
Suite 1252 East Tower
Atlanta, GA 30334

March 29, 2016

Attending:

Committee Members

Ray Lambert, Chairman
Dwight Evans, Vice Chairman
Dwight Davis
Aaron McWhorter
Mike Phelps
Paul Shailendra
William Bagwell, Board Chair, ex-officio

Board Members

Nancy Addison
Duncan Johnson, Jr.
Mark Mobley
Matt Sawhill
Bodine Sinyard
Philip Wilheit
Dee Yancey

Guests

Mark Smith, Water Utility Management
Jonathan Harding, Georgia Agribusiness Council
Ross M. Smith, PotashCorp – PCS Nitrogen
Ronny Just, Georgia Power Company
Chris Manganiello, Georgia River Network
Russ Pennington, Pennington Consulting Services
Harold Reheis, Joe Tanner and Associates
Doug Fulle, Oglethorpe Power Corporation
R. Jackson, GreenLaw
John Eberhart, Georgia Earth Alliance
Alex Bradford, Georgia Farm Bureau

Staff Members

Mark Williams
Walter Rabon
Kyle Pearson
Melanie Johnson
Mary Kathryn Yearata
Cathy Barnette
Amber Carter
Dave Crass
Mark Whitney
Jenifer Wisniewski
John Bowers
Steve Friedman
Eddie Henderson
Thomas Barnard
Corporal Mitch Oliver
Terry West
Mary Walker
Jeff Cown
Chuck Mueller
Doralyn Kirkland
Karen Hays
Jac Capp
Kenneth Monroe Craig
Greg Hausmann
Michael David Smith
John Erbele

The March 29, 2016 meeting of the Environmental Protection Division was called to order by Chairman William Bagwell.

Chairman Bagwell called on Ray Lambert, Chairman of the Environmental Protection Committee.

Mr. Lambert called on Karen Hays, Chief of the Air Protection Branch of the Environmental Protection Division, to brief the Board on the proposed amendments to the Rules for Air Quality Control.

Karen Hays stated that the package before the Board members is known as the miscellaneous rule update. She further stated that every year during this time, the Environmental Protection Division (EPD) comes before the Board to update the rules for Air Quality to include new regulations published by the United States Environmental Protection Agency (EPA). She added that as the official delegate authority for air permits, EPD is required to do this each year.

Ms. Hays stated that the proposed amendments fall into three basic categories; first is updates to certain new source performance standards which are technology based standards that limit criteria air pollutant emissions from new sources in specific source categories. She further stated that one example in Georgia is Portland Cement Plants. She added that the EPA is required to periodically review the new source performance standards and to update them if they deem it necessary.

Ms. Hays stated that the second category is updates to the emissions standards for hazardous air pollutants, which are control technology requirements for sources in specific source categories. She further stated that one example in Georgia is chrome electroplating. She added that the EPA is required to conduct a onetime residual risk in technologies review on these standards seven or eight years after they are finalized and update them if they deem it necessary.

Ms. Hays stated that several of these emissions standards have been subject to litigation. She further stated that in some cases this has required EPA to amend the standards or, in the case of the brick manufacturing rule which is in this package, to start over from scratch.

Ms. Hays stated that the final category is updates to the reference to Georgia's Procedures for Testing and Monitoring Sources of Air Pollutants. She further stated that any new test methods that were added by EPA as a result of the updates previously mentioned are included in Georgia's Procedures for Testing and Monitoring, then we have to re-adopt the procedures by reference. She added that this concludes what is in the package today.

Ms. Hays stated that after this briefing, EPD plans to solicit public comment and hold a public hearing. She further stated that they then plan to present these amendments to the Board for adoption at the June 2016 Board meeting.

Mr. Lambert called on Jac Capp, Chief of the Water Protection Branch of the Environmental Protection Division to brief the Board on the proposed amendments to the Rules for Safe Drinking Water.

Jac Capp stated that our current Rules for Safe Drinking Water require all non-governmentally owned community public water systems to acquire and maintain a trust indenture in order to get a permit. He further stated that a trust indenture results in the legal transfer of facility equipment and property from the operator to the trustee under certain conditions. He added that it unnecessarily complicates the sale of private water systems from one operator to another.

Mr. Capp stated that this requirement has been in the rules for a number of years and during that span of time, the Environmental Protection Division (EPD) has never directed a trustee to operate a water system under this rule provision. He further stated that EPD no longer believes that it's an effective alternative to the performance bond or letter of credit requirement as described in the act. He added that the statute does specifically give the Director the authority to require a performance bond or a letter of credit if the owner of a public water system violates the Safe Drinking water standards and does not rectify that situation in a reasonable period of time.

Mr. Capp stated that the performance bond or letter of credit would become involved in the context of a case by case enforcement process. He further stated that what EPD is proposing to do in these rule amendments is to remove the requirement for the trust indenture for the non-governmentally owned water systems and to put in its place the requirement to have a performance bond or letter of credit exactly as that requirement is spelled out in the statute. He added that the statute does have four specific exemptions; it would not involve any governmentally-owned system, any system owned by a Church or religious institution, any water system owned or provided by an employer that serves its employees, or any system which is jointly owned by the individuals that are the users of the system.

Mr. Capp stated that after today's briefing, they will go out for public notice, and then come back ideally at the June meeting requesting adoption.

Mr. Lambert introduced speaker Mark Smith, Water Utility Management.

Mr. Smith stated that Mr. Capp summarized the issue well. He further stated that he wished to amplify his words from the private sector. He added that he is from Water Utility Management in Savannah.

Mr. Smith stated that Water Utility Management operates water systems and waste water systems in twelve counties in southeast Georgia. He further stated that they have been in business for 46 years. He added that for 46 years, they have been dealing with this requirement and they have dealt with it, but it does transfer title of the system to the trustee and every time a system is sold or

refinanced it creates a legal headache to try and track down the trustee and obtain their resignation or their acquiescence.

Mr. Smith stated that this would be a major improvement to our legal status and remove a cloud from every private water system and waste water system and allow for the refinancing and transfer to go much more smoothly.

Mr. Lambert introduced speaker Russ Pennington, Pennington Consulting Services.

Mr. Pennington stated that he applauds EPD, Mr. Capp, and the Watershed Branch for tackling this issue. He further stated that Georgia is the only state in the country that still uses trust indentures. He added that the fact that the trust indentures have never been exercised as a tool is telling of their applicability in drinking water today.

Mr. Pennington stated that the purpose of the trust indentures is somewhat antiquated. He further stated that when he worked at EPD, there were constant hang-ups in the transfer of water systems due to the trust indentures. He added that EPD has done a great job with these changes.

Mr. Lambert thanked Assistant Director Mary Walker and her team for their efforts during the stakeholder listening session.

There being no further business, the meeting was adjourned.